G. R. S. App. F. IX-4]

1942 -

LB **File No.** 77-L

Serial Nos. 1 &

Previous References.

B 42-42 (4 & 7)
69-39 (1. 2)
~~89~~-37 (2, 3, 5, 18)
69-39 (3. 4)

~~*Later References.*~~

63-39 (13, 16)
131-32 (2 & 4).

(Local Board

Reserve

B 3

176.61

GENERAL AND REVENUE SECRETARIAT

Serial Nos. two

Part B for Decr 943

SUBJECT.

Proposals to treat the sum utilised by the Mysore D. B. out of Rly Cess funds as being expended on Rly. Cess fund works instead of towards normal expenditure.

2) To the P. D. B. Mysore Dt
No L: 5826 & 6.12.43
Issues ~~instructions~~ in regard to the

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat

Requisition for papers

Section LB

A

B

Filed

Deposit No.

File No. 50:39

Serial No. 109/117

To be put up Diary No. 5351/L of 194

Signature

Branch LB.

Section LB

Date 2.8.2.44

WD 03702—GPB—750 books of 100 pp. each—16-10-39

Taken up from Judiciary file No 1484/D-43 dtd 5/9/43

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

5805

General and Revenue Secretariat

Requisition for papers

Section LB

A.

B

Filed

Deposit No.

File No. 14-41

Serial No. 29

To be put up Diary No. 5272/L of 1943

Signature S B Ramaiah

Branch L.Sy.

Section LB

Date 28.2.44

To Kindly send for diary No 5053/L-43 dated 8/12/43

WD 0376.9—GPR—750 books of 100 pp. each—16-10-39

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE. 585

General and Revenue Secret

Requisition for papers

Section LB

A

B

Filed

Deposit No.

File No. 26-42

Serial No. 25

To be put up Diary No. 5430/L of 1943

Signature

Branch L.&S.

Section A.B.

Date 28.2.44

Secretariat Reed

WD 03702—GPB—750 books of 100 pp. each—16-10-39

From the P.D.B. Mysore Dt.

No C 4731/42-43 dy 6th March 194

Requests, in the circumstanc stated, sanction of Govt. to treat a sum of Rs 2,09,320-6-8 reported to have been utilise ~~out of Repairs~~ for the normal expenditure, as having been met from Rly Cess Fund accounts unde Sec 68(4) of the Dt. Boards Act, and to give credit to a sum of Rs 3,11,180 ~~as having been~~ expended on three bridges & some special roadworks less the amount utilised to the Dt. Fund Accounts from the Rly Cess accounts in view of the depleted finances of the Dt. Board

The accountant deputed from the Comptroller's office ~~has~~ is reported to have separated the mixed accounts of the Dt. Fund and Rly Cess funds, and has found that a sum of Rs 2,09,320-6-8 has been expended towards the normal activities of the Dt. Boards out of the Rly Cess Funds

2 The P.D.B. points out that at the time of the floatation of the loan of Rs 8 lakhs for the Nanjangud - Chamarajnagar Rly. there was an accumulated balance of Rs 3,82,082-4-1 which was ~~also~~ not utilised. Also the DKP had incurred expenditure of more than Rs 3,05,5 from the General Funds on these bridges from 1931 onwards, apart from expenditure on

Bangalore
Dated 17th March 43

The Secretary to Govt
Law Dept

No.594/spl dated 16-4-43

U.O.417/C.LAD dated the 12th April 43.

Returned with Compliments:-

9) The closing balance under Railway Cess Fund a
at the end of June 1928 after meeting all expenditu
account of construction of N.C.Railway till the dat
opening the line was Rs.92,015-6-2. Subsequent t

date, the net Railway earnings intimated by the Railway Department and the Cess collections and contribution of Rs.31,000/- towards the Sinking Fund of loan of Rs.8,00,000/- and interest payments are the only items of receipts and expenditure exhibited in the District Board accounts till 1st March 1938 when it was contemplated to credit the balance under this head into the Treasury for credit to the separate deposit account as ordered in G.O.No.L.4922-38 L.B.39-37-3 dated 1-12-1937. The accumulated Railway Cess balance on 1-3-38 was Rs.1,67,593-6-2 which should have been transferred to the deposit account but this was not done for want of a sufficient cash balance as this amount had been appropriated by the Board for expenditure on original communication works without obtaining the approval of Government.

10. Since 1-3-1938 and upto 1-6-40 (the date of formation of the Mandya District Board,) the Board credited to its General funds, a sum of Rs.63,148-9-1 pertaining to the Railway Cess receipts being the net earnings of the N.C. Railway Cess collections and Interest on Sinking Fund investment while it has paid out of the same source a sum of Rs.21,421-8-7 towards Capital outlay on the Railway and interest on the debentures, which is a proper charge against the Railway Cess Fund. Setting off the latter against the former, the resultant sum of Rs.41,727-0-6 has also been utilised by the Board out of the Railway Cess Funds upto 1-6-40. This appropriation of Railway Cess Fund and meeting payments on account of that Fund, conti

5470/C 5

Comptroller's Office

LB File No. 77 – 42 of 194....

Serial No.

was proposed ~~to~~ to be met out of its own funds, which seem to have become subsequently depleted due to the heavy scale of expenditure and the limited receipts.

M. Viswaraya Hy
Comptroller.
12.4.43

Acs
16-4-43

13 Subd. for perusal. The Comptroller does not agree to the proposal to reimburse a sum of Rs 311,180 spent by the Board, but has no objection to the non-adjustment of a sum of Rs 1,99,588-3-5 to the Ry. Cess funds.

22/16/4 In the opinion of the Financial Secy may also be Named on the proposal of the Improvement Board President.

Law Secy 24/4/43

15 Govt Sanction accordingly

Acs
3-5-43

Fin Secy

L

(5) I shd like to know whether Ry Cess Funds were being utilised for improvement of roads in the D as stated by the President, Mysore Board. Any collections bearing on subject may kindly be called for. Last not – A copy of the Dt. Board's Set of ...

SECY. LAW DEPT. 12013 1943 GOVT OF MYSORE

U.O.No. 11525 3. MAY 1943

NOTE—Contn. Sheet.

In para 2 of the President's letter of 6/3/43 it is stated as follows:-

"It is not clear on what principle the Rs 3,82,082-4-1 which the Municipality has been ordered to refund to the Railway Cess Fund was originally credited to that fund. Under section 68(4) of the Bombay District Municipal Act, the proceeds of the Railway Cess are to be credited to the Municipal Fund and when it was received, for the original or special road works there would not have been an accumulated balance of Rs 3,82,082-4-1 when the Manjanpur-Chamaja nagar Loan for Rs 8 lakhs was floated during the year 1924."

The point at issue in this case is whether or not the Railway Cess funds which are earmarked for railway purposes could also be utilised in the improvement works. In the absence of a programme of Railway works, it may perhaps be conceded that the amount could be diverted. But once the Railway works were in progress, and the loan taken by the Board had to be discharged, the diversion of Railway Cess funds into other channels cannot be permitted unless there was a very large surplus enabling the carrying out of other works in addition to the meeting of the heavy commitment.

In this view, the President's statement to be incorrect. Besides, the question of construction of roads & bridges out of Railway Cess funds was taken up very much later, and was only provided (in 1926. Act V of 1926) The Karnataka Previous

purchase of the specific earmarked fund for that purpose.

Besides, according to learned counsel for the petitioner, the amount collected may have been utilised in the previous years for purposes which may be made. No such orders have been sought

[3/5]

dated 6.3.1969

In para 2 of his letter, the President, Mysore Dist Board has invoked the aid of the provisions of sub-clause (4) of section 68 of the Mysore Dist Boards Act in support of his point of that, if the Mysore Dist Board had utilized the Railway cess as soon as it was received for the original special road work, there would not have been an accumulated balance of Rs 3,82,000 and the Board would have raised a loan to that extent for the year 1924. This contention is untenable for the very reason that the above provision of law enabling the Dist Boards to divert the Railway cess funds for other purposes was not on the Statute in 1924, as the amendment was enacted only in the year 1936. The Board cannot now claim the benefit of this provision with retrospective effect.

The fact is that, as the Railway cess was, prior to the year 1936, being

Utilization of Railway cess funds —
Nigeria.

Continuation Sheet. KB File No. Current No. 77 of 1940 Page. 9

the District Boards. The President found it hardly possible to authorize the amount, as it was not included in the Treasury Pass Book, with the result that a sum of £6,759 3/6 was spent up to the 31st July 1938 & a further sum of £4,783 10/6 was spent out of the net earnings of the Railway, for the normal activities of the Board. In the same circumstances the Kano Native Authority Kano spent the money out of their Railway cess funds, at their credit & these Boards have been asked to make good the said amounts in their annual estimates. In part, provision is being made in the annual Budgets of these Boards to recoup the amount to the Railway cess fund. Having regard to this fact it is for consideration if a differential treatment might be shown to the Nigerian Boards, which has authorized the amount unauthorized without previous sanction of Govt. It was brought to light only when the Treasury audited the books after the amounts had been actually spent. The question we have to decide is whether the expenditure should be confirmed & the amount may not be enforced.

3/11/40

A counter-claim for £3,500/- being the amount spent without the sanction of the General for the Board for the erection of three

WD 1140—GPB—50,000—5-11-42

Irrigation tanks bridges [illegible] Bridge No 1 [illegible] Bridge No 3) Thus the bridges are to expire on roads. -is provided. ~~Thus~~ ~~it~~ ~~said~~ These works are stated to have been taken up for the year 1931 onwards. These are all works of a Capital nature and if the Improvement Fund Cess money viz the Railway Cess fund, is Credit Revenue Grant for these, provided it represents the Surplus over the amount required for the repayment of the loan taken from Railway in connection with the Railway Cess Railway. If these were no surplus, the ~~then~~ fund could not have been allowed to be diverted for the Construction of these bridges, as essentially the proceeds of the Railway cess are earmarked for the specific purpose connecting Roads in the District of Ariyalur & Trichy in the Board area. Further, a recognition of the claim for such a refund would create unnecessary difficulties, as there is no money under the Railway cess. Thus if the Improvement Dist Board at present & the Perambalur Dist Board ~~would~~ which is now separated from the Improvement Board - would also have to meet a portion of it for the very reason that the Improvement Dist Board had not had surplus money under the Railway cess fund at the time for the Construction of these bridges, the Contention that the amount spent thereon should be recouped from the Railway cess to the fund for

Utilization of Railways Funds — 5427 Dir

Continuation Sheet. LD File No. Current No. 77 of 1942-43 Page. 11

SECY. LAW DEPT. 1943 GOVT OF MYSORE

Cannot perhaps be accepted.

99) First notes with regard to para 21 Lapse

Lawley 15/9/43

Please bring up in person

Lapse 16-9-43

Rs 2,09,320 at the Revised

Was originally a grant of Rs 2,09,320/-

Was subsequently appropriated

from the Railways Fund for

Normal Expenditure.

The question is whether the

amount should be directed to

be credited to the Railways Fund

as was done in the case of

Rebate & Radium Roads.

The amounts advanced

by the Finance Department

cannot be given

The power of appropriation

or diversion of Railways Funds

given by S.6(4) in 1936. Even

for such a diversion subsequent

to 1936 previous approval of

the Govt is necessary. Moreover

the grounds urged by Accountant

neither the appropriation made

WD 1140—GPB—50,000—5-11-42

as the undertaking proposed was made before the introduction of the Bill under the circumstances the agreement may not be enforced as recommended by the Comptroller

Mun 16 2 SG
Typist
Secy

17-9-43
Secy

I agree with the Law Secy

Secy

FINANCIAL SECRETARY'S OFFICE
U.O No H.1391
17 SEP 1943

OFFICE OF THE MINISTER FOR L. S. G. & P. H.
Date 25/9/43
No. 2092

Mun
24 9 43
Secy
Law
Secy
26.9.43
Secy
28 9 43

A draft letter is put up accordingly
on 30/9.

Draft letter
Secy
30/9/43

A typed draft in half margin may be put up.

Typist
8/11/43.

Typed and

May be sent
Law Secy
17/11/43

17/11

Secy
18/11/43

TYPING SECTION
10 NOV. 1943
GEN. & P.L.

SECY. LAW DEPT
4983
GOVT OF [illegible]

TYPING SECTION
19 NOV. 1943
GEN. & P.L. CTT.

WD 1140—GPB—50,000—5-11-42

No.C. 473/42-43. Office of the President, District Board,
Mysore District,
Dated, Mysore. 6th March 1943.

From

K.C. Subbanna, Esq.,
President,
District Board, Mysore.

THE DEPUTY COMMISSIONER
No. 3078
8 MAR 1943
MYSORE DISTRICT

GEN. & REV. SEC. 5470/4
LB77-42-1

To

Narayanaswamy Naidu, Esq., B.A., B.L.,
Secretary to Government,
Law Department, Bangalore.

(Through the Deputy Commissioner, Mysore District.)

Sir,

I have the honour to state that it is seen from the report of Mr. Y.C. Srikantaiya, the Accountant of the Comptroller's Office, deputed to set right the Loan Accounts, that the District Board has utilised a sum of Rs. 1,67,593-6-2 to the end of February 1938 and a sum of Rs. 41,727-0-6 subsequent to 1-3-38 to 1-6-40 in toto a sum of Rs. 2,09,320-6-8 out of the Railway Cess Fund and its net earnings for the expenditure of the normal activities of the Board. He has made a very clear cut distinction between the District Funds and the Railway Cess Funds. It may be stated here that the Board was formerly maintaining only one account having no differentiation between the District Fund and Railway Cess Accounts.

It may be pointed out here that if the District Board, as permitted by Section 68 (4) of the District Board Act, had utilised the Railway Cess as and when it was received for the original and special road works, there would not have been an accumulated balance of Rs. 3,82,082-4-1, when the Nanjangud - Chamarajanagar Railway loan for Rs. 8 lakhs was floated during the year 1924. The capital expenditure of Nanjangud - Chamarajanagar Railway was 12,39,692-1-3. If there were no accumulated balance of Rs. ~~38,20,82-4-1~~ 382,082-4-1, under Railway Cess, the District Board would have gone in for a loan of Rs. 12 lakhs during the year 1924 and discharged the loan from the realisation of the Railway Cess in subsequent years. This contingency did not arise on account of heavy accumulated balance under Railway Cess.

L 5-826 Secy LB.77-42-2?

To

The President,
District Board,
Mysore District,

Through: The Deputy Commissioner, Mysore.

Sir,

With reference to your letter No.C.473/42-43 dated 6th March 1943 requesting, in the circumstances explained sanction to treat a sum of Rs.2,09,320-6-8 utilised by the Board out of the Railway cess funds towards normal expenditure as having been met from the Railway cess fund accounts under Section 68(4) of the District Boards Act, and to give credit to the District Board funds of a sum of Rs.3,11,180 expended on certain works less the amount utilised, in view of the depleted finances of the District Board, I am directed to observe as follows:—

Up to 1-6-1940 i.e., till the District Board was bifurcated, a sum of Rs.2,09,320-6-8 was unauthorisedly appropriated from the Railway cess fund towards the normal expenditure of the Board. As to the question whether the amount should be credited to the Railway cess fund, the arguments advanced by you are not tenable since retrospective effect cannot be given to the powers of appropriation or diversion of the Railway cess funds given by Sec.68(4) of the District Boards Act. Even for such a diversion subsequent to 1936, previous approval of

Government is necessary. Therefore on the ground urged by you, neither the appropriation made can be approved nor can the counter-claim for Rs.5,20,500 spent on bridges etc., from general funds be allowed.

3. The only sum that can be adjusted is Rs.9752-3-3 spent by the Board on account of the Railway cess fund from General Funds. This amount represents the sum due to the District Board for payments on account of Railway cess fund in excess of receipts from 1-6-1940 to 30-6-42. Deducting this amount from the Treasury Rs. 2,09,320-6-8, the net amount due to be credited to the Railway cess fund amounts to Rs. 1,99,568-3-5.

4. Government observe, that at least after the year 1936, the Board could have diverted ~~direc-~~ted funds from the Railway cess funds with the previous sanction of Government, if the amount was available, and that in effect it was a question of adjustment of the funds of the Board for different purposes. If the adjustment is made now, further complications are likely to arise as the unauthorised appropriation was made before the bifurcation of the original Mysore District Board.

5. In view of the Board's representation that it is working with a minus balance and that it has spent ~~expended~~ a large sum of Rs.5,20,500 out of its normal

revenues on capital works and such as construction of bridges and improvement of communications during this period, the adjustment of the above sum of Rs. 1,99,563-3-5 to the Railway cess will not be enforced.

6. As for the counter-claim preferred by the Board that the sum of Rs.3,11,180 spent out of its normal revenues may be got reimbursed out of the balances under the Railway cess fund, it is not possible to accede to this proposal, since the outlay on such works, at the time they were started, was proposed to be met out of the Board's own funds, which seem to have become subsequently depleted due to the heavy scale of expenditure and the limited receipts.

I have etc.,

Cur 4
18-

For Secy to Govt.,
Law Deptt.

Memo. 5827 dt 6/12

Copy w.c. to the Comptroller to Govt. with reference to his U.O.Note No.417/CLAD dated 15-4-43 (No.594/Spl. dated 16-4-43).

By order,

For Secretary to Govt.
Law Deptt.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA

General and Revenue Secretariat.

No. L5826 / Lb. 77-42-2

Dated Bangalore, 6/12 November 1943.

FROM

The Secretary to the Government of His Highness the Maharaja of Mysore.
Law Department.

To

The President,
District Board,
Mysore District.

(THROUGH THE DEPUTY COMMISSIONER, MYSORE)

S i r,

With reference to your letter No.C.473/42-43 dated the 8th March 1943 requesting, in the circumstances explained, sanction to treat a sum of Rs.2,09,320-6-8 utilised by the Board out of the Railway cess funds towards normal expenditure as having been met from the Railway cess fund accounts under Section 68 (4) of the Mysore District Boards Act, and to give credit to the District Board funds of a sum of Rs.3,11,160 expended on certain works less the amount utilised, in view of the depleted finances of the District Board, I am directed to observe as follows:-

Up to 1st June 1940 i.e., till the District Board was bifurcated, a sum of Rs.2,09,320-6-8 was unauthorisedly appropriated from the Railway cess fund towards the normal expenditure of the Board. As to the question whether the amount should be credited to the Railway cess fund, the agguments advanced by you are not tenable since retrospective effect cannot be given to the powers of appropriation or diversion of the Railway cess funds given by Section 68 (4) of the District Boards Act. Even for such a diversion subsequent to 1936, previous approval of Government is necessary. Therefore on the ground urged by you, neither the appropriation made can be approved nor can the counter-claim for Rs.5,20,500 spent on bridges etc., from general funds be allowed.

2. The only sum that can be adjusted is Rs.9,752-3-3 spent by the Board on account of the Railway cess fund from General Funds. This amount represents the sum due to the District Board for payments on account of Railway cess fund in excess of receipts from 1st June 1940 to 30th June 1942. Deducting this amount from the sum of Rs.2,09,320-6-8, the net amount due to be credited to the Railway cess fund amounts to Rs.1,99,568-3-5,

3. Government observe, that at least after the year 1936, the Board could have diverted funds from the Railway cess funds with the previous sanction of Government, if the amount was available, and